

Waivers	First Name	Last Name	Claim Number
			W-16-0004
Amount	OGC Received Date	Assigned To	Assigned Date
\$5140.96	03/21/2016	Ann Sisson	03/22/2016
EPA Decision	EPA Decision Date	Amount Approved	Status
DENIED	01/23/2017	CLOSED	
Appeal	Comments		
No	Dear [REDACTED],		

This email is in response to your "Request for Waiver of Debt," received by this office on March 21, 2016, wherein you request approval of a waiver of a debt in the amount of \$5,140.96. This debt arises from health benefit premium deductions that mistakenly were not taken out of your paycheck in 2014 and 2015 when you transferred to EPA from another federal agency. For the reasons set forth below, your request for a waiver is denied.

#### Background

As set forth in your request, you transferred to EPA from the [REDACTED]. Specifically, effective January 26, 2014, you transferred from a GS-12-10 Human Resources Specialist position at the NPS to a GS-13-06 Human Resources Specialist position at EPA. You indicate that your transfer was fraught with administrative errors, causing you to repeatedly contact EPA and NPS management to rectify errors. The errors included failure to have your sick and annual leave balances timely transferred, failure to have your established level of TSP contributions sustained, and failure to transfer over your FEHB enrollment. Despite this administrative error, EPA has now taken steps to ensure that there was no break in your health care coverage, such that you did receive the benefits of your enrollment during that period.

A review of your available EPA Leave & Earnings statements (LES) shows that when you transferred to EPA, there was no heading entitled "Health Benefits" under Deductions and that there also was no heading under "Benefits Paid by Government" showing that the Government was paying a share of health benefit premiums. The first LES that displayed any health benefit reference was for the pay period ending 2/7/15 (pay date of 2/17/15). Accordingly, from the appearance of the LES itself, and given your increase in net salary and the erroneous reduction in TSP contributions (as well as a voluntary change in your income tax withholding status), you indicate that you did not recognize that you were receiving any significant unexplained overpayment in your bi-weekly salary payments. However, you note that in approximately April of 2014, you began experiencing difficulty having medical prescriptions filled at your pharmacy and were denied medical prescription coverage at certain times. You further indicate that an AETNA representative informed you at that time that you were not listed as a current beneficiary because they had not received verification from EPA that you were continuing in the health

benefit plan.

You brought this to the attention of EPA's Office of Human Resources (OHR) in July of 2014. At that time, OHR contacted AETNA. OHR then informed you that you had not been "active" in the system, but that your records had now been fixed and that you should "be all set now." Notwithstanding this temporary resolution of the problem, the failure to deduct health care premiums continued. In fact, the enrollment transfer error was not detected or corrected until you notified OHR in February of 2015 that AETNA was in receipt of EPA payroll information indicating that you were not enrolled in their health plan.

#### Analysis

In this instance, I consider fault to exist if it is determined that you knew or should have known that you were receiving more pay than you were entitled to receive during the time frame in question. The waiver statute was enacted in order to relieve an employee from the obligation of reimbursing the government if the facts and circumstances of the case show that an employee could not reasonably have been aware of the error, and when collection would be against equity and good conscience and contrary to the best interests of the United States. Further, a person receiving money erroneously paid by a government agency acquires no right to that money and is responsible for making full restitution.

Generally, if (1) an employee elects a benefit that is funded out of pay deductions, (2) such employee receives the benefits of that election, (3) the amount of the intended deduction was readily ascertainable when the election was made, and (4) the employee is fully apprised by his LES of the actual amounts deducted for payment for the benefit, then the employee has a duty to find out whether such deductions were properly made and report any discrepancies to the proper authority for correction. B-183249 (June 23, 1975).

The totality of the circumstances in this case leads me to believe that with reasonable diligence, you did have an opportunity to detect that you had been overpaid. Because your intention was to transfer your existing health coverage from another federal agency, you reasonably should have known your FEHB health plan's rate information and expected a bi-weekly deduction in that amount.

In addition, you were furnished a LES for each pay period during the time in question. The LES included an information block designated "Deductions." This block provides a detailed description of all deductions from an employee's salary. It should have been apparent upon your examination of your LESs that this block did not reflect any deductions for health insurance premiums. Generally, if an employee has records which, if reviewed, would indicate an overpayment and fails to review such documents for accuracy or otherwise fails to take corrective action, the employee is not without fault and waiver will be denied. B-184480 (May 20, 1976); B-188822 (June 1, 1977).

It is my view that collection of this overpayment is not against equity, good conscience, nor contrary to the best interest of the United States. I have concluded that you should reasonably have been aware that health premium deductions were not being taken out of your salary.

I sincerely regret a more favorable reply cannot be made. I do realize that this overpayment and administrative delay in correcting the error has created a great inconvenience for you. Under 40 C.F.R. 13.11, I have the delegated authority to waive all or part of the interest, penalty, and administrative charges, if any, which have accrued on this debt. In this regard, I am directing the Department of Interior, Interior Business Center (IBC) to proceed with collection of the debt, but to waive any amount of your debt that may be attributable to interest, penalty, and administrative charges. If you have any questions or need further assistance, please contact Ann Sisson of this office at 202-564-5469.

Type  
Federal Employee Health Benefits (FEHB)

Attachments